

**IN THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF COLUMBIA**

AFGE LOCAL 520

P.O. Box 1778
Columbia, SC 29209

Plaintiff,

v.

**U.S. DEPARTMENT OF VETERANS
AFFAIRS**

810 Vermont Avenue NW
Washington, DC 20571

Defendant.

COMPLAINT

NOW COMES Plaintiff, AFGE LOCAL 520, by its undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant U.S. DEPARTMENT OF VETERANS AFFAIRS' failure to comply with Plaintiff's Freedom of Information Act (FOIA) requests seeking various records related to the production outages or production interruptions of the Veterans Benefits Administration system or applications.

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the United States to foster democracy and allow any person to obtain copies of the records of agencies for any public or private purpose consistent with the terms of the federal Freedom of Information Act, 5 U.S.C. § 552.

PARTIES

2. Plaintiff American Federation of Government Employees (AFGE) Local 520 is a non-profit labor organization serving the public by protecting government employees.

3. Defendant U.S. Department of Veterans Affairs is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

4. This case is brought under 5 U.S.C. § 552(a)(6)(c)(i) and presents a federal question conferring jurisdiction on this Court.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B) because this District is always a permissible venue for federal FOIA suits.

APRIL 28, 2018 FOIA REQUESTS

6. On April 28, 2018, AFGE requested the following records from Veteran Benefits Administration and Office of Assistant Secretary for IT, two sub-agencies of the VA: "[a]ll documents or artifacts that list or contain information related to production outages or production interruptions pertaining to Veterans Benefits Administration (VBA) system or applications, from January 1, 2017 to present." AFGE also requested a current version of the document titled "Field Outage Dashboard." True and correct copies of the requests are attached as Exhibit A.

7. On June 28, 2018, VA acknowledged receipt of the request and stated that a response would be forthcoming. A true and correct copy of the email correspondence is attached as Exhibit B.

8. On November 2, 2018, having not received any further communications or records from VA, AFGE sent an email to follow-up on the request. See Exhibit B.

9. On November 6, 2018, VA responded that it "will follow-up with OBPI and advise when you can expect to receive a response." See Exhibit B.

10. VA has not provided a status update or produced any responsive records as of the date of the filing of this complaint, five months later.

COUNT I – APRIL 28, 2018 VIOLATIONS OF FOIA

11. The above paragraphs are incorporated herein.
12. Defendant is an agency subject to FOIA.
13. The requested records are not exempt under FOIA.
14. Defendant has refused to produce the requested records in a timely manner.

WHEREFORE, AFGE asks the Court to:

- i. declare that Defendant has violated FOIA;
- ii. order Defendant to conduct a reasonable search for records and to produce the requested records;
- iii. enjoin Defendant from withholding non-exempt public records under FOIA;
- iv. award Plaintiff attorneys' fees and costs;
- v. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

Attorneys for Plaintiff
AFGE LOCAL 520

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